

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUN 26 1992

Federal Communications Commission  
Office of the Secretary

In the Matter of

Amendment of Part 90 of the  
Commission's Rules Pertaining  
to End User and Mobile Licensing  
Information

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PR Docket No. 92-78  
RM 7407  
RM 7749

To: The Commission

**COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS**

The Association of American Railroads (hereinafter "AAR") hereby files its comments in the above-proceeding in response to the Commission's Notice of Proposed Rulemaking (hereinafter "Notice") released on May 5, 1992, FCC 92-171.

AAR is a voluntary, non-profit organization composed of member railroad companies operating in the United States, Canada and Mexico. These railroad companies generate 97% of the total operating revenues of all railroads in the United States. The AAR is the joint representative and agent of these railroads in connection with federal regulatory matters of common concern to the industry as a whole, including matters pertaining to regulation of communications. In addition, the AAR functions as the frequency coordinator with respect to applications by the member railroads for licenses in the Private Land Mobile Radio Service.

In the Notice, the Commission proposed three changes in its rules. First, with regard to licensees of shared systems that do not individually license their end users, the Commission has

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proposed to eliminate the requirement that licensees maintain and periodically furnish detailed information concerning end users. Second, the Commission proposed to reduce the frequency with which all private land mobile licensees must file license modification applications when they increase or decrease the number of mobiles on a system. And third, the Commission proposed that licensees be permitted to file applications for license modification to reflect an increase in the number of mobiles directly with the Commission rather than through a frequency coordinator.

With respect to the first proposed change, AAR is not directly affected because its members do not operate private carrier or other shared use systems. AAR's members are nevertheless indirectly affected by private carrier and shared use systems in the sense that any use of the radio frequency spectrum by any user has an impact on all users in terms of the relative efficiency of spectrum utilization and the amount of spectrum that remains available for use by others.

It is in this context that AAR previously expressed reservations about the proposal in RM 7407 to eliminate the need for filing end user lists. As AAR stated in its comments filed on August 1, 1990 in RM 7407, the reason the Commission instituted the end user list requirement was its concern about "the potential of 'paper loading' either to maintain exclusive use or to discourage additional sharing of a channel."<sup>1/</sup> In its

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<sup>1/</sup> AAR Comments in RM 7407, filed August 1, 1990 at 2, citing Frequency Coordination, Memorandum Opinion and Order, P.R. Docket 83-737, 61 RR 2d 148, 159 (1986).

Notice, the Commission expressed the view that enforcing compliance with the loading and eligibility rules could still be accomplished through the normal complaint and compliance procedures, and that enforcement objectives would not be compromised by eliminating the end user filing requirement.

Notice at paragraph 16. In deference to the Commission's judgment in this regard, the AAR concurs in the Commission's proposal on the condition that the Commission be vigilant about the possibility of "paper loading" and take prompt enforcement action in the event compliance actions are instituted regarding the Commission's eligibility and loading requirements.

As to the second proposed change, i.e., relaxation of the requirement for filing license modifications in the event of a change in the number of mobiles, the AAR is in full agreement with the Commission's proposal. Under the current rule (Section 90.135(a)(5)), any change in the number of mobile units, even one, requires a licensee to file a license modification application. The Commission has proposed that all licensees be required to modify their licenses only when the number of mobiles increases or decreases by 20% from the number authorized. AAR agrees with the Commission that the present requirement is unduly burdensome, that there is no need for the Commission or frequency coordinators to be informed every time a system increases or decreases by a few mobiles, and that the 20% benchmark figure is a more appropriate threshold for reporting changes.

The Commission's third proposed modification involves frequency coordination requirements for mobile licensing. At the present time, license modifications to change the number of mobiles on a system require frequency coordination.<sup>2/</sup> The Commission has proposed to allow licensees to file applications for license modification for an increase in the number of mobiles directly with the Commission, rather through the frequency coordinator. Notice at paragraphs 28-29.

AAR believes that the better course is to continue the present procedure of requiring frequency coordination for applications pertaining to increases in the number of mobiles on a system, particularly if the threshold is raised to 20%, as proposed. The frequency coordinators are in a position to evaluate the potential of channel crowding and channel saturation resulting from increased numbers of mobiles on specific frequencies and to recommend appropriate steps to minimize these problems in particular locations. Unless frequency coordinators are afforded the opportunity to review applications for increases in the quantity of mobiles, they will be unable to perform this important function.

In conclusion, the AAR conditionally agrees with the Commission's proposed change in the rules regarding elimination of the requirement to file end user lists, as discussed above; fully supports establishment of a 20% threshold for triggering the application filing requirement for increased numbers of

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<sup>2/</sup> 47 C.F.R. §90.175(f)(10).

mobiles; and urges the Commission to retain its present requirement that applications for license modifications to increase the number of mobiles on a system by more than 20% be filed with frequency coordinators.

Respectfully submitted,

ASSOCIATION OF AMERICAN RAILROADS

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June 26, 1992